

REMARKS

Claims 1-8 and 12-77 are pending in the present application.

Claims 1, 2, 4, 5, 12, 13, 15-18, 21-24, 30, 31, 40, 45, 46, 48-50, 54-58, 60, 61, 65, 66, 68-70 and 74-77 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Des. Pat. No. 221, 791 ("Chi"). Further, claims 1-5, 12, 13, 15-18, 21-24, 30-32, 38-41, 45, 46, 48-50, 54-61, 65, 66, 68-70 and 74-77 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,251,420 ("Rogers"). Applicants respectfully traverse these rejections for at least the following reasons.

First, independent claims 1, 30 and 31 recite a "handheld pipette". (Emphasis Added). Neither Chi nor Rogers teaches, or suggests, a "pipette". Rather, Chi is entitled "Combined Mixer and Dispenser" and therefore the drawings of this design patent presumably illustrate a combined mixer and dispenser. A combined mixer and dispenser is not a "pipette", as recited in independent claims 1, 30 and 31. Rogers teaches a fire extinguisher which clearly is also not a "pipette".

Second, independent claims 1, 30 and 31 recite "at least one button located on the top of the body portion". The Office Action argues that "Chi discloses a dispenser that appears to be designed with an actuator button aligned with the central axis of the dispenser". Office Action, p. 2. Applicants respectfully disagree.

Chi is a design patent. As noted above, Chi is entitled "Combined Mixer and Dispenser". The drawings of Chi illustrate the top of this mixer and dispenser. Chi also describes that "[t]he characteristic feature of the design resides in the particular configuration and arrangement of the top surfaces of the control portion and battery housing". Applicants respectfully submit that Chi does not teach "at least one button located on the top of the body portion", as recited in

independent claims 1, 30 and 31. Rather, Chi is devoid of any description, or suggestion, that the top of the combined mixer and dispenser includes a "button". The exact component(s) illustrated on the top of the combined mixer and dispenser are unknown.

Third, independent claims 1, 30 and 31 recite that the "at least one button located on the top of the body portion" is "operable by a thumb of the operator to effect aspiration and dispensing of fluid through said nozzle portion". Assuming *arguendo* that Chi and Rogers teach "at least one button located on the top of the body portion", neither Chi nor Rogers teach "aspiration ... of fluid through said nozzle portion". This lack of teaching in Chi and Rogers is expected as a combined mixer and dispenser mixes and dispenses fluids and a fire extinguisher dispenses fluids, respectively. A combined mixer and dispenser and a fire extinguisher do not aspirate fluid through a nozzle portion.

Accordingly, Applicants respectfully request that the rejection of independent claims 1, 30 and 31 be withdrawn. Also, Applicants respectfully request that the rejection of the other claims be withdrawn, as these claims depend from and further limit independent claims 1, 30 and 31.

Moreover, the Office Action states that "[t]he structural requirements of claim 30 and 31 are the same. As such, the claims are considered redundant and duplicate claims". Office Action, p. 3. Applicants respectfully disagree. The scope of claims 30 and 31 are different.

Claim 31 recites:

said body portion being shaped and said nozzle portion being positioned such that when the pipette is held in an operating position, any force applied to mount a tip to the nozzle is in a direction causing a major component of the force to be applied against and substantially perpendicular to a portion of the operator's hand grasping said body portion which is substantially between a second joint of the operator's fingers and a point slightly behind the operator's knuckles.

The structure of the body portion and the nozzle portion are such that any force applied to mount a tip to the nozzle acts a specific way, as recited in claim 31. This limitation is not recited in claim 30 and, therefore, claim 30 has a different scope.

Allowable Subject Matter

In the Office Action, claims 25-29 and 33-37 were allowed.

Also, claims 6-8, 14, 19, 20, 42-44, 47, 51-53, 62-64, 67 and 71-73 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants respectfully submit that claims 6-8, 19 and 20 were previously rewritten in independent form as claims 33-37, respectively, which Applicants presented in the response submitted September 16, 2003. As for the other above-identified dependent claims, Applicants respectfully submit that these claims are now in a condition for allowance based on Applicants' amendments to independent claims 1, 30 and 31 and the remarks provided herein.

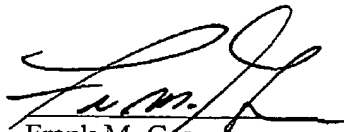
This communication is believed to be fully responsive to the Office Action and every effort has been made to place the application in condition for allowance. The claims, in view of the foregoing explanation, are believed to be patentable over the cited art, and a favorable Office Action is hereby earnestly solicited.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Examiner is requested to telephone the number provided below.

Respectfully submitted,

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